

However, I do not believe that this section applies to Counts 2, 6 and 7 for the reason that I do not understand that 'analysis' has any reference to weighings.

"With reference to Counts 1 and 3, while I am overruling the motion, this letter will serve to put the plaintiff on notice that unless Section 372 (b) is complied with that when this matter is reached for trial I will entertain a motion to dismiss those two and will dismiss them.

"With respect to Count 1, the plaintiff admits that the defendant's request can be complied with. With respect to Count 3, the plaintiff's testimony discloses that it could not be complied with. In this particular instance the testimony disclosed that there were twice as many bags of the potato chips as there were of the popcorn collected, and had the same judgment been used with respect to the potato chips as was used with respect to the popcorn, 372 (b) could have been complied with. The fact that they used it all when the testimony disclosed there were six samples would indicate that they could have complied with the section had they wanted to, and while the sample they have now may not serve the purposes, unless it does so, when the trial is reached upon the proper motion I will strike the count."

On March 21, 1952, the defendants entered pleas of nolo contendere to counts 1 and 5 of the information, and upon the motion of the United States attorney, the court dismissed counts 2, 3, 4, 6, and 7 and imposed a fine of \$750 against the company and a fine of \$200 against the individual.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS

19156. Adulteration of cocoa beans, sugar, chocolate, coconut, shelled almonds, raisins, and rice flour. U. S. v. 8 Bags, etc. (F. D. C. No. 32553. Sample Nos. 26200-L, 26201-L, 26203-L to 26209-L, incl.)

LIBEL FILED: February 27, 1952, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: Between the approximate dates of November 17, 1948, and January 24, 1952, from New York, N. Y., Rochester, N. Y., Newark, N. J., Hoboken, N. J., Fresno, Calif., and Trinidad.

PRODUCT: 8 200-pound bags of cocoa beans, 2,420 100-pound bags of sugar, 77 200-pound bags of chocolate, 11 100-pound bags of coconut, 15 80-pound bags of shelled almonds, 140 30-pound bags of raisins, and 8 100-pound bags of rice flour, at Reading, Pa., in the possession of Luden's, Inc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects in the cocoa beans, rodent excreta in the sugar, chocolate, coconut, shelled almonds, and rice flour, and insects in the raisins; the cocoa beans consisted in part of a decomposed substance by reason of the presence of mold.

Further adulteration, Section 402 (a) (4), the products had been held under insanitary conditions whereby they may have become contaminated with filth. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 22, 1952. Default decree of condemnation and destruction.

19157. Adulteration of cocoa beans. U. S. v. 298 Bags * * * . (F. D. C. No. 33102. Sample No. 33352-L.)

LIBEL FILED: April 29, 1952, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about May 9, 1951, from New York, N. Y.

PRODUCT: 298 bags, each containing 130 pounds, of cocoa beans at Milwaukee, Wis.